

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

PUBLIC.RESOURCE.ORG, INC., ET AL.,	)	
Petitioners,	)	
	)	
v.	)	No. 23-1311
	)	
FEDERAL COMMUNICATIONS COMMISSION	)	
AND UNITED STATES OF AMERICA,	)	
Respondents.	)	

**JOINT RESPONSE TO ORDER TO SHOW CAUSE  
WHY THE RECORD SHOULD NOT BE UNSEALED**

Petitioners Public.Resource.Org, Inc., iFixit, Inc., and Make Community, LLC, and Respondents Federal Communications Commission and the United States, hereby respond to the Court’s Order to Show Cause why the sealed portions of the record in this case should not be unsealed.

The sealed portions of the record are copyrighted technical standards published by private organizations that the FCC incorporated in its rules governing the authorization of radio-frequency emitting devices imported or marketed in the United States. Pet’s Unopposed Motion to File Documents Under Seal (March 5, 2024); *see Updating References to Standards Related to the Commission’s Equipment Authorization Program*, Report and Order, 38 FCC Rcd 1903 (March 13, 2023). The copyrights are owned by the International Organization for

Standardization (ISO), the International Electrotechnical Commission (IEC), and the Institute of Electrical and Electronics Engineers, Inc. (IEEE).

Petitioners asked the Court for leave to file the standards with the Court on the ground that the standards were not included in the administrative record and thus would not be included in the Joint Appendix submitted with the parties' briefs. Pet's Motion at 2. Petitioners acknowledged that "private organizations claim copyright protection for each of the standards"; "to avoid unnecessary controversy," they asked the Court for leave to file the standards under seal. *Id.* Respondents did not oppose Petitioners' motion, *id.*, which the Court granted in a September 20, 2024 Order.

Counsel for Respondents contacted counsel for Petitioners and for ISO, IEC, and IEEE, who have authorized counsel for Respondents to state their responses to the Court's Order to Show Cause, as follows:

Respondents take no position on whether it would be appropriate for the Court to unseal any portion of the record that it relied on in reaching its decision.

Petitioners state that the sealed records do not appear to have been relied on by the Court in reaching its decision and should be stricken from the appellate record under Fed. R. App. Proc. 10(e)(3).

IEEE, ISO, and IEC<sup>1</sup> concur with Petitioners' position that the records should be stricken from the appellate record or, in the alternative, should remain under seal, for the reasons set forth in their separate filing.

Respectfully submitted,

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*/s/ Maureen K. Flood*

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May 1, 2025

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<sup>1</sup> IEEE, ISO, and IEC are not parties, but they joined in the Brief of Amici Curiae on Behalf of American National Standards Institute and 16 Standards Organizations in Support of Respondents, Doc. #2055339.

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